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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

Arizona Corporation Commission

DOCKETED

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In the matter of

JOHN W. PACHECO and ANGELA  
PACHECO, husband and wife;BILL L. WALTERS and JACQUELYN  
WALTERS, husband and wife;FINANCIAL AMERICAN  
CORPORATION, a Nevada corporation;THE FINANCIAL AMERICAN GROUP,  
LLC, a Delaware limited liability company;AMERICAN APARTMENT FUND XI, LP,  
a Delaware limited partnership;

Respondents.

DOCKET NO. S-20688A-09-0326

DECISION NO. 71305**ORDER TO CEASE AND DESIST, FOR  
RESTITUTION, AND FOR  
ADMINISTRATIVE PENALTIES AGAINST:****BILL L. WALTERS and JACQUELYN  
WALTERS**

On June 26, 2009, the Securities Division (the "Division") of the Arizona Corporation Commission (the "Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, for Restitution, for Administrative Penalties, and for Other Affirmative Action (the "Notice") against JOHN W. PACHECO; ANGELA PACHECO; BILL L. WALTERS; JACQUELYN WALTERS; FINANCIAL AMERICAN CORPORATION; THE FINANCIAL AMERICAN GROUP, LLC; and AMERICAN APARTMENT FUND XI, LP.

On July 1, 2009, the Division served the Notice upon JOHN W. PACHECO; ANGELA PACHECO; FINANCIAL AMERICAN CORPORATION; THE FINANCIAL AMERICAN GROUP, LLC; and, AMERICAN APARTMENT FUND XI, LP (collectively the "Pachecos and Entity Respondents") by delivering a copy of it to their attorney Craig Ganz. On July 10, 2009, a

1 request for hearing was filed by the Pachecos and Entity Respondents and, on July 24, 2009, an  
2 answer to the Notice was filed by them.

3 The Division served the Notice upon BILL L. WALTERS and JACQUELYN WALTERS  
4 by mailing on July 22, 2009 a copy of it to their last known dwelling or usual place of abode  
5 located at 5 Ridgeline Dr., Newport Beach, CA 92660 by commercial courier, namely FedEx,  
6 residential delivery direct signature requested. The signed proof of delivery states that the Notice  
7 was delivered on July 23, 2009 at 1:40 p.m. BILL L. WALTERS and JACQUELYN WALTERS  
8 filed neither a request for hearing nor an answer to the Notice.

9 I.

10 FINDINGS OF FACT

11 1. JOHN W. PACHECO ("PACHECO") is an individual who, at all relevant times,  
12 resided in Maricopa County, Arizona. PACHECO is the CEO, chairman of the board, and sole  
13 director of FINANCIAL AMERICAN CORPORATION.

14 2. BILL L. WALTERS ("WALTERS") is an individual who, at all relevant times,  
15 resided in California. WALTERS is the president of FINANCIAL AMERICAN CORPORATION  
16 and, at all relevant times, conducted business in Maricopa County.

17 3. FINANCIAL AMERICAN CORPORATION ("FAC") is a Nevada corporation  
18 doing business in Arizona. FAC is both the managing member of THE FINANCIAL  
19 AMERICAN GROUP, LLC, and the manager of AMERICAN APARTMENT MANAGEMENT  
20 COMPANY, LLC ("AAMC").

21 4. THE FINANCIAL AMERICAN GROUP, LLC ("TFAG") is a Delaware limited  
22 liability company doing business in Arizona.

23 5. AMERICAN APARTMENT FUND XI, LP ("AAF") is a Delaware limited  
24 partnership doing business in Arizona. AAMC is the general partner of AAF.

25 6. PACHECO, WALTERS, TFAG, and AAF may be referred to collectively as  
26 "Respondents."

1           7.     ANGELA PACHECO was, at all relevant times, the spouse of PACHECO and  
2 JACQUELYN WALTERS was, at all relevant times, the spouse of WALTERS. ANGELA  
3 PACHECO and JACQUELYN WALTERS may be referred to collectively as "Respondent  
4 Spouses." Respondent Spouses are joined in this action under A.R.S. § 44-2031(C) solely for  
5 purposes of determining the liability of the respective marital communities.

6           8.     At all relevant times, PACHECO and WALTERS acted for their own benefit and for  
7 the benefit or in furtherance of their and Respondent Spouses' respective marital communities.

8           9.     At all relevant times, Respondents were not registered as securities dealers or  
9 salesmen.

10          10.    From on or about September 2005 to March 2007 in Maricopa County, Arizona,  
11 Respondents offered and sold to 13 investors \$5,600,000 of investment contracts issued by TFAG  
12 and AAF with the title Deal Point Memorandum.

13          11.    At all relevant times, the investment contracts referred to above were not registered  
14 pursuant to Articles 6 or 7 of the Securities Act.

15          12.    Touting their expertise in the real estate development process and their superior  
16 knowledge of not only the Arizona real estate market but the southwest generally, including Nevada,  
17 Texas, and New Mexico, PACHECO and WALTERS represented that they have many years of  
18 experience identifying real estate to contract for and quickly sell or "flip" for substantial profit.

19          13.    Respondents represented that TFAG and AAF would enter into contracts to purchase  
20 real estate then flip the real estate before it was necessary to pay the purchase price and close escrow.

21          14.    Respondents represented that the investors' money would only be used by  
22 Respondents as refundable earnest money deposits toward the purchases.

23          15.    The Deal Point Memoranda state that the investors will receive the greater of 100  
24 percent of their investment or 5 to 10 percent of the net profits on selling the contracted-for property.

1           16.     Respondents deposited all of the investors' money into Respondents' bank accounts  
2 for use by Respondents as described above and Respondents represented that they would profit  
3 from flipping the real estate.

4           17.     Other than paying Respondents, the investors had no duties to perform or  
5 responsibilities to fulfill in order to receive their promised profit. Respondents represented that they,  
6 not the investors, would locate real estate to purchase, find buyers to flip it to, and handle the purchase  
7 and flip.

8           18.     Respondents represented that the investors' money would be returned if escrows did  
9 not close.

10          19.     Respondents located land and apartment buildings to purchase, entered into contracts,  
11 opened escrows, and deposited earnest money. However, no escrows closed and, even though  
12 Respondents received refunds of earnest money deposits upon escrow cancellation, Respondents  
13 returned no money to the investors.

14          20.     PACHECO and WALTERS spent \$2,011,000 of the investors' money on personal  
15 living expenses. Respondents spent the remainder of the investors' money on business expenses,  
16 including payroll, interior design services, and common area maintenance charges.

17          21.     On several occasions, Respondents represented to the investors that a flip was about to  
18 take place when in fact it was not and the escrow was about to be or had already been cancelled.

19          22.     Respondents did not disclose to the investors that WALTERS previously defaulted on  
20 more than \$100 million in loans he took for real estate investment; that he filed bankruptcy and  
21 discharged debts totaling \$220 million, including the real estate loans; and, that despite his  
22 bankruptcy, WALTERS was and has been able to enjoy millions of dollars of assets that he put  
23 beyond the reach of the Bankruptcy Court through transfers to his wife and certain trusts.

## II.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. WALTERS and JACQUELYN WALTERS did not request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-307.

3. WALTERS and JACQUELYN WALTERS did not file an answer pursuant to A.A.C. R14-4-307.

4. WALTERS offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

5. WALTERS violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

6. WALTERS violated A.R.S. § 44-1842 by offering or selling securities while neither registered as dealers or salesmen nor exempt from registration.

7. WALTERS violated A.R.S. § 44-1991 by (a) employing a device, scheme, or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, and (c) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit. Respondents' conduct includes, but is not limited to, the following:

a. Misrepresenting that the investors' money would only be used by Respondents as refundable earnest money deposits toward the purchase of real estate when it was in fact used by Respondents for personal living expenses and business expenses;

b. Misrepresenting that the investors' money would be returned if escrows did not close;

c. Misrepresenting to the investors that a flip was about to take place when in fact it was not and the escrow was about to be or had already been cancelled; and,

1 d. Failing to disclose to the investors that WALTERS previously defaulted on  
2 more than \$100 million in loans he took for real estate investment; that he filed bankruptcy and  
3 discharged debts totaling \$220 million, including the real estate loans; and that, despite his  
4 bankruptcy, WALTERS was and has been able to enjoy millions of dollars of assets that he put  
5 beyond the reach of the Bankruptcy Court through transfers to his wife and certain trusts.

6 8. The conduct of WALTERS is grounds for a cease and desist order pursuant to  
7 A.R.S. § 44-2032.

8 9. The conduct of WALTERS is grounds for an order of restitution pursuant to A.R.S.  
9 § 44-2032.

10 10. The conduct of WALTERS is grounds for administrative penalties under A.R.S. §  
11 44-2036.

12 11. WALTERS acted for the benefit of the marital community of WALTERS and  
13 JACQUELYN WALTERS and, pursuant to A.R.S. §§ 25-214 and 25-215, this order of restitution  
14 and administrative penalties is a debt of the marital community of WALTERS and JACQUELYN  
15 WALTERS.

### 16 III.

### 17 ORDER

18 THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, the  
19 Commission finds that the following relief is appropriate, in the public interest, and necessary for  
20 the protection of investors:

21 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that WALTERS and any of his agents,  
22 employees, successors and assigns, permanently cease and desist from violating the Securities Act.

23 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that WALTERS, individually,  
24 and the marital community of WALTERS and JACQUELYN WALTERS, jointly and severally,  
25 shall pay restitution to the Commission in the amount of \$7,620,390. Payment shall be made in  
26 full on the date of this Order. Any amount outstanding shall accrue interest at the rate of 10

1 percent per annum from the date of this Order until paid in full. Payment shall be made to the  
2 "State of Arizona" to be placed in an interest-bearing account controlled by the Commission.

3 The Commission shall disburse the funds on a pro-rata basis to investors shown on the  
4 records of the Commission. Any restitution funds that the Commission cannot disburse because an  
5 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an  
6 investor because the investor is deceased and the Commission cannot reasonably identify and  
7 locate the deceased investor's spouse or natural children surviving at the time of the distribution,  
8 shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the  
9 Commission. Any funds that the Commission determines it is unable to or cannot feasibly  
10 disburse shall be transferred to the general fund of the state of Arizona.

11 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that WALTERS, individually,  
12 and the marital community of WALTERS and JACQUELYN WALTERS, jointly and severally,  
13 shall pay an administrative penalty in the amount of \$250,000. Payment shall be made to the  
14 "State of Arizona." Any amount outstanding shall accrue interest at the rate of 10 percent per  
15 annum from the date of this Order until paid in full. The payment obligations for these  
16 administrative penalties shall be subordinate to any restitution obligations ordered herein and shall  
17 become immediately due and payable only after restitution payments have been paid in full or  
18 upon the default of WALTERS or JACQUELYN WALTERS with respect to the restitution  
19 obligations of WALTERS and JACQUELYN WALTERS.

20 For purposes of this Order, a bankruptcy filing by WALTERS or JACQUELYN  
21 WALTERS shall be an act of default. If WALTERS or JACQUELYN WALTERS does not  
22 comply with this Order, any outstanding balance may be deemed in default and shall be  
23 immediately due and payable.

24 ...

25 ...

26 ...

1 IT IS FURTHER ORDERED that, if WALTERS or JACQUELYN WALTERS fails to  
2 comply with this order, the Commission may bring further legal proceedings against WALTERS or  
3 JACQUELYN WALTERS, including application to the superior court for an order of contempt.

4 IT IS FURTHER ORDERED that this Order shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

6  
7   
8 CHAIRMAN


  
COMMISSIONER

9  
10   
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

11  
12 IN WITNESS WHEREOF, I, MICHAEL P. KEARNS,  
13 Interim Executive Director of the Arizona Corporation  
14 Commission, have hereunto set my hand and caused the  
15 official seal of the Commission to be affixed at the  
16 Capitol, in the City of Phoenix, this 21<sup>st</sup> day of  
OCTOBER, 2009.

17   
18 ERNEST G. JOHNSON  
19 EXECUTIVE DIRECTOR

20 DISSENT

21  
22 DISSENT

23 This document is available in alternative formats by contacting Shaylin A. Bernal, ADA  
24 Coordinator, voice phone number 602-542-3931, e-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov).

25 (ASL)  
26



SERVICE LIST FOR: In the Matter of John W. Pacheco, et al.

Bill L. Walters

Jacquelyn Walters

5 Ridgeline Dr.

Newport Beach, CA 92660

John W. Pacheco

Angela Pacheco

Financial American Corporation

The Financial American Group, LLC

American Apartment Fund XI, LP

c/o Brian J. Schulman, Esq.

Greenberg Traurig, LLP

2375 E. Camelback Rd., Ste. 700

Phoenix, AZ 85016